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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere

Addendum

Mission to Mauritania* **

Summary

The present report contains the findings and observations of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere, following his visit to Mauritania (2–8 September 2013) at the invitation of the Government. The main objective of the visit was to evaluate progress made since his predecessor, Doudou Diène, first visited the country in 2008. The Special Rapporteur noted the progress accomplished by the State towards meeting its human rights obligations and the openness by the Government vis-à-vis the international human rights mechanisms. He also noted that a number of challenges persist with regard to eliminating ethnic and descent-based discrimination and the marginalization of certain segments of the population. The report concludes with a variety of recommendations which the Special Rapporteur wishes to offer to the Government in a spirit of constructive dialogue and engagement.

* Late submission.

** The summary of the present report is circulated in all official languages. The report itself, contained in the annex to the summary, is circulated in the language of submission and in French only.

Annex

[English and French only]

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, on his mission to Mauritania (2 to 8 September 2013)

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I. Introduction

1. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere, undertook an official visit to Mauritania from 2 to 8 September 2013 at the invitation of the Government. During his visit, he held meetings in Nouakchott, Rosso and Kaedi. He met the highest government representatives, at the national and local levels, as well as representatives of civil society, non-governmental organizations, human rights defenders and victims of human rights violations including slavery-like practices and ethnic and descent-based discrimination.

2. The Special Rapporteur would like to thank the Government of Mauritania for its invitation and the cooperation provided before and during this visit. He would also like to thank all the authorities he met for the insightful and detailed discussions. He is grateful for the fruitful discussions with the civil society organizations and to the victims who courageously shared their stories with him. He would also like to thank the United Nations country team, and particularly the Office of the High Commissioner for Human Rights, for their invaluable support and the exchanges he had with them.

3. The Special Rapporteur visited Mauritania to evaluate progress made since his predecessor, Doudou Diène, first visited the country in 2008, obtain an up-to-date understanding of the situation regarding the elimination of ethnic and descent-based discrimination and identify the remaining challenges, with a view to providing constructive recommendations which it is hoped will assist the Government in advancing its fight against racial and ethnic discrimination.

4. The Special Rapporteur appreciated this opportunity to assess the compliance of Mauritania with its international obligations and the implementation of the recommendations made by the various human rights mechanisms. In this regard he would like once again to commend the Government for acceding to many international human rights instruments. The cooperation between Mauritania and international human rights mechanisms, special procedures, treaty bodies and the universal periodic review must also be acknowledged. There is no doubt, in the Special Rapporteur's opinion, that there has been real progress in the implementation of some of the recommendations made by human rights mechanisms. Yet he found that a number of challenges still persist and should be addressed as a matter of priority. Achievements and challenges identified in the Special Rapporteur's findings are further described in the sections below.

II. Context

5. Mauritania is a multi-ethnic and multi-cultural country with an estimated population of 3,542,000,[1] the majority of whom live in rural communities, have very precarious livelihoods and are heavily dependent on agriculture and pastoralism. The population can be divided into two groups: the Moors, including the black moors (Haratines) and the Afro-Mauritanians, including the Fulani (Peulh), Soninke, Wolof and Bambara. Most of the non-governmental stakeholders whom the Special Rapporteur met reported that the Arab-Moors dominate participation in political and economic life, whereas the majority of the population, mainly represented by the other two groups, have been de facto systematically excluded. This situation has kept these groups in a very precarious condition of poverty and

[1] United Nations Educational, Scientific and Cultural Organization (UNESCO) Institute for Statistics, Education (all levels) profile – Mauritania (2013).

relegated them to the fringes of society since before the country's independence, thus fuelling frustrations and anger.[2] The Special Rapporteur met with members of some of the affected groups, who clearly expressed a high level of frustration related to the Government's failure to effectively address the conditions which perpetuate discrimination and marginalization.

6. The Haratine are thought to constitute the largest ethnic group in Mauritania and the most politically and economically marginalized in what remains a society deeply stratified by ethnicity, descent, castes and class. The word Haratine is derived from the Arabic word for freedom, as they are perceived by the rest of society as freed slaves.

7. Despite some visible progress, the Haratine are said to be the most disenfranchised community and suffer from discrimination, marginalization and exclusion due to their descent. Approximately 50 per cent of the Haratine community are in conditions of de facto slavery through domestic servitude and bonded or forced labour.[3] The Haratine remain marginalized and underrepresented in political and public positions. In 2013, it was reported that out of 95 seats in the National Assembly, only 5 were held by Haratine; and out of the 56 senators only 1 was Haratine. Moreover, only 2 out of 13 regional governors and 3 of the 53 regional prefects were Haratine. Haratine are said to account for the largest share of the total illiterate population; the majority of Haratine have not completed primary education; and they constitute only 5 per cent of those enrolled in higher education. The vast majority of dockers, domestic workers and labourers performing unskilled and low-paid jobs are said to be Haratine, while very few Haratine occupy high-ranking civil service or senior executive posts in the public and private sectors. Haratine also claim that they have been excluded from the business and banking sectors, as commercial enterprises are usually headed by non-Haratine.

8. Similar discriminatory practices affect to varying degrees, the other Afro-Mauritanian communities, especially the Wolof minority.

9. The Moors are divided into many different tribes stratified in castes by profession, such as blacksmith, religious leader, and warrior, inter alia. The Special Rapporteur was informed that relations among the different castes are very hierarchical and give rise to the exclusion and marginalization of certain castes, such as that of blacksmiths, in favour of others. Access to certain functions, activities and responsibilities is therefore closely linked to caste identity and marriages are highly codified according to descent. For example, the Special Rapporteur met with members of the blacksmith caste, who reported that 90 per cent are involved in business and retailing, that only 5 per cent are primary school teachers and that their sons cannot marry girls from other castes. Although some of the Afro-Mauritanian ethnic groups are not divided into castes, they too are very hierarchically organized and relations among the various subgroups are highly influenced by descent.

10. The Special Rapporteur noted that Mauritanian society is highly stratified along ethnic and caste lines, with de facto slaves and descendants of slaves assigned the lowest status, which is passed down through the generations. This stratification, which has historical roots, fuels latent tensions and conflicts which at times turn violent. The visit of the Special Rapporteur was timely in this regard as it took place a few months after ethnically tinged violent incidents erupted in Kaedi, the largest city and administrative

[2] Rapport de la société civile sur la mise en œuvre du Pacte international relatif aux droits civils et politiques (PIDCP) (October 2013).

[3] Unrepresented Nations and Peoples Organization (UNPO) and Initiative de Résurgence du Mouvement Abolitionniste en Mauritanie, alternative report submitted to the United Nations Human Rights Committee at the 107th session during the consideration of the first periodic report of the Islamic Republic of Mauritania (February 2013).

centre of the Gorgol region in the South. The incidents, which occurred on 7 July 2013, involved individuals from the Moorish and Peulh communities, and left 21 people injured and 15 shops looted, with 29 individuals arrested. Local authorities informed the Special Rapporteur that, although this was the fourth incident of the kind, there was a much more heightened ethnic dimension than in previous events, reflecting the mounting tensions between the Moors and the Afro-Mauritanian communities during the election process. According to information received, violence erupted in the city's main market after a young Moorish man assaulted an older Peulh woman, triggering anger among some Peulh people present at the scene, who attempted to retaliate by targeting the Moorish shop holders in the area. It was also reported that in the days following the incident members of the *Touche pas à ma nationalité* movement gathered in front of the police station where the young Moorish man had been held to demand that he be duly brought to justice and not released. An added complication, as explained by some interlocutors, was the increasing instrumentalization of isolated incidents that were then turned into ethnically polarized confrontations. The underlying ethnic discrimination, according to some interlocutors, was evident in the official response to these events in that the victims from the Moorish communities affected by these incidents had already received some form of compensation and support, whereas the Afro-Mauritanian economic operators who lost assets and profit as a result of the incidents of 1989 had not.[4]

III. Legislation

11. Mauritania is a State party to eight of the core international human rights treaties, including the Convention on the Elimination of all Forms of Racial Discrimination and international treaties prohibiting slavery and forced labour including child labour. In addition Mauritania has been a State Party to the African Charter on Human and Peoples' Rights since ratifying the Charter in 1986.

12. With regard to the domestic legal system, in 2008, Mr. Diène recommended that, in order to focus on the central role of social multiculturalism and strengthen the ongoing drive towards democracy, the Constitution should be amended to include the affirmation that Mauritanian society is built on democratic, egalitarian and participatory multiculturalism, and the recognition of the main ethnic groups or communities in society and their languages and cultures (A/HRC/11/36/Add.2).

13. The Special Rapporteur was pleased to note that the Constitution had indeed been amended to this effect. In addition to article 1 of the Constitution of 1991, which guarantees equality before the law to all citizens without any distinction as to origin, race, sex or social condition, article 2, as revised by Law No. 15 of 2012, sets forth that the people of Mauritania, united throughout history by shared moral and spiritual values and aspiring to a common future, recognize and proclaim their cultural diversity, the basis of national unity and social cohesion, and its corollary, the right to be different.

14. Given that language policies have contributed to polarizing the various communities, Mr. Diène also recommended that, in addition to Arabic, Pular, Soninke and Wolof should be given constitutional status as official languages (A/HRC/11/36/Add.2). While article 6 of the Constitution recognizes Arabic, Pular, Soninke and Wolof as national languages, it still provides that the official language is Arabic.

[4] Submission from the Collectif des opérateurs économiques victimes des évènements de 1989 en République Islamique de Mauritanie.

15. Despite Mr. Diène's recommendation to insert specific provisions on racial and ethnic discrimination in the Criminal Code, and adopt comprehensive legislation against all forms of discrimination, incorporating a definition of discrimination that is applicable in all areas of social life and that contains all the elements of article 1 of the Convention on the Elimination of Racial Discrimination (A/HRC/11/36/Add.2), these reforms remain pending. The current Special Rapporteur was told that the above-mentioned constitutional provisions have been interpreted so as to prohibit all forms of racial and ethnic discrimination.

IV. Institutional framework

A. National human rights institutions

16. Mr. Diène recommended the adoption of a law establishing an independent standing national commission, in accordance with the Paris Principles, to uphold human rights, combat discrimination and promote democratic, egalitarian and participatory multiculturalism.

17. The Special Rapporteur welcomes the establishment of the National Human Rights Commission (CNDH), whose mandate and functions are provided for in Law No. 31 of 2010 and which was accredited with "A" status in 2011 by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). CNDH is mandated to monitor and issue alerts on all human rights-related issues. The Commission is required to formulate consultative recommendations on the existing legal framework, raise awareness on human rights among the general population, especially while combating racial discrimination, slavery-like practices and gender-based discrimination. It is also vested with powers to visit, without prior notice, detention facilities to assess whether the fundamental rights of those under custody are being upheld. Finally, the Commission has the power to investigate all human rights violations brought to its attention and take appropriate measures in coordination with the authorities concerned.[5]

18. The Special Rapporteur learned about the efforts the Commission has made in the promotion and protection of human rights, including on issues related to ethnic discrimination, such as the human rights of returnees, the fight against slavery and land disputes as well as monitoring and fact-finding with regard to ethnic incidents, including the incident in Kaedi in 2013. Despite the establishment of a local Committee of Wise Persons to mediate the conflict in Kaedi, the Commission stated that there was a need to have an early warning system in place to allow it to be effective in its mission of conciliation and mediation before tensions turn into violent confrontations.

19. The Commission also played an active role in awareness-raising activities and in initiating public debates on issues such as the prohibition of discrimination, and cultural diversity and human rights.[6]

20. The Special Rapporteur on contemporary forms of slavery, including its causes and consequences recommended the establishment of an independent Government-funded mechanism, enshrined in legislation, which would be empowered to carry out investigations on its own initiative and would have the standing to bring civil cases of slavery or discrimination before the courts (A/HRC/15/20/Add.2). The Special Rapporteur appreciates the establishment of the Tadamoun (Agence Nationale de lutte contre les Séquelles de l'Esclavage, de l'Insertion et de Lutte contre la Pauvreté) – ANLSESILP) agency, set up in

[5] Loi N° 2010-031 abrogeant et remplaçant l'ordonnance N° 015-2006 portant institution de la CNDH.

[6] Commission Nationale des Droits de l'Homme, Rapport annuel 2012.

March 2013 with the aim of identifying programmes to eradicate the consequences of slavery, to design, coordinate, and implement reintegration programmes for returnees and promote programmes to eradicate poverty as advocated in the World Bank's Poverty Reduction Strategy Paper (CSLP) on Mauritania.[7] The agency can lodge complaints against alleged perpetrators of slavery-like practices on behalf of the victims, although at the time of the visit it was still setting up a legal cell to support cases in court. When meeting with agency representatives, the Special Rapporteur was told that the agency had not received any complaints of ethnic or descent-based discrimination. It was also engaged in awareness and public information activities and was involved in land restitution cases and projects to alleviate poverty for those living in very precarious conditions. At the time of the visit it was premature for non-governmental interlocutors to comment on the work of the new agency but some indicated that it was not perceived as independent and that they were waiting to see how it would develop its legal casework.

B. Justice system

21. While commending the achievements in reforming legislation and establishing the necessary institutions to combat discrimination and slavery-like practices, the Special Rapporteur notes that there are significant challenges related to the pace and effective implementation of the law. As a result, many individuals have lost confidence in these institutions and the justice system. To date no case of racial discrimination has been referred to national courts, and the few cases of slavery-like practices brought before courts have led neither to the prosecution nor the punishment of the perpetrators, nor to redress for the victims.

22. In addition, the justice system was reported to work mainly in Arabic, as bilingual judges are rare. This, and the fact that judges appear to be recruited mainly from one caste or tribe, represents a barrier to access to justice, leading to de facto exclusion of those who do not speak Arabic.[8] The practice of prioritizing one language and one caste or tribe also makes access to the judiciary profession very limited for the other ethnic communities and contributes to fuelling impunity for human rights violations, including cases of ethnic and descent-based discrimination, as victims do not trust the justice sector, which they see as skewed in favour of certain segments of the population.

23. The Special Rapporteur heard that the nature of descent-based slavery in Mauritania is such that victims have been indoctrinated over generations into accepting their status as possessions of their masters and remain economically tied and dependent on their de-facto masters; it is therefore extremely difficult for them to pursue cases against their masters in court. The National Human Rights Commission reiterated that victims do not usually lodge complaints as they are not educated and are unaware of their rights and that judicial proceedings are lengthy, cumbersome and expensive and generally lead to further stigmatization. The Commission therefore believes that civil society organizations should be granted leave to lodge complaints on behalf of victims. This should also contribute to building national jurisprudence on a number of issues, including ethnic and descent-based discrimination.

24. The Special Rapporteur also heard numerous complaints of ethnic profiling, particularly by law enforcement agencies patrolling the roads and was informed that

[7] Available from: http://documents.worldbank.org/curated/en/2011/06/14473144/mauritania-joint-staff-advisory-note-third-poverty-reduction-strategy-paper.

[8] Fédération international des ligues des droits de l'Homme (FIDH), Mauritanie, "Critiquer la gouvernance: un exercice risqué" (2012).

foreigners detained for identity control purposes were disproportionately of sub-Saharan African origin. Furthermore, lack of translation of statements and lack of interpreters at police stations and during court hearings had already been highlighted by the United Nations Working Group on arbitrary detention.[9]

V. Policies and practices

A. Ethnic discrimination and social cohesion

25. The Special Rapporteur welcomes the process for developing a national plan of action against racial discrimination which was initiated by the Government in 2013 in cooperation with the Office of the High Commissioner for Human Rights. Background research, including examination of national plans of action adopted by other countries within the region, and good practices in this field, as well as the first draft of the plan, were developed and discussed at a first stakeholders' workshop held on 3 September 2013, which the Special Rapporteur had the opportunity to address. During the workshop the Special Rapporteur observed that issues related to ethnicity, the limited representation of the various communities in public positions, and the census and land issues gave rise to animated discussions, as these deeply touched the hearts and minds of people in the country.

26. The Special Rapporteur also welcomes the implementation by the Government, in partnership with United Nations agencies, of a national programme aimed at building social unity through citizenship training and the equitable distribution of resources to vulnerable populations, in particular the returnees and populations affected by slavery-like practices and its consequences (A/HRC/WG.6/9/MRT/1). As part of this programme, in 2013 the Government also embarked on the process of formulating a national strategy on social cohesion (SNCS), a process that is designed to be inclusive and consultative through a series of regional workshops and debates. In the lead-up to the strategy, a number of factors were identified as working favourably towards social cohesion, including a common religion, an active sense of community and generosity, new forms of solidarity (associations, clubs, cooperatives), and the existing policies and strategies to eradicate poverty.

27. Blockages to social cohesion were also identified, such as a complex social fabric, the weakening of the traditional mechanisms of solidarity, the weight of traditions in mentality and practices, and identification with the ethnic group rather than the nation, leading to a sense of citizenship still under construction, problems of national identity, tensions around issues stemming from past human rights violations[10] and eradication of de facto slavery, the inability of the State to address all these blockages and the sensitivity of the subject-matter. In addition, attitudes in dominant and victimized communities have also developed over a long period. These attitudes are deeply held and may be antagonistic to changes that are essential if the victimized community is to progress.

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[9] A/HRC/10/21/Add.2; the Working Group on Arbitrary Detention also found that the different attitudes towards persons of different ethnic origins by officials at detention centres and the conditions of administrative detention, however short, remain a source of concern..

[10] Government of the Islamic Republic of Mauritania, Fonds pour la réalisation des OMD and the United Nations Development Programme (UNDP), "Formulation de la Stratégie Nationale de Cohésion Sociale".

28. Another manifestation of exclusion felt by some groups, and expressed by several interlocutors, is the insufficient diversity in key government and public administration posts.

B. *Passif humanitaire*

29. In 2000 the African Commission on Human and Peoples' Rights (ACHPR) issued an omnibus decision addressing a number of communications filed against Mauritania concerning human rights violations perpetrated by the Government between 1986 and 1992. The Commission examined, inter alia, alleged violations based on an array of atrocities perpetrated or incited by the Government against its citizens and in particular against members of various black ethnic groups. In its decisions the Commission found the Government responsible for grave or massive violations of human rights, including ethnic discrimination, torture, illegal detention, extrajudicial killings and mass expulsion of Afro-Mauritanians. The decision included the following six recommendations designed to remedy the violations and compensate the victims: the need for an independent enquiry and prosecutions; the rehabilitation and reintegration of those expelled; compensation of widows and beneficiaries; reinstatement of workers; eradication of slavery; and effective enforcement of an anti-slavery statute. Since the decision, progress has been made towards achieving both the letter and spirit of the Commission's recommendations. Yet more remains to be done in order to implement these fully.

30. Until now no prosecution has been initiated against the perpetrators of human rights violations committed between 1989 and 1991 against the Afro-Mauritanian population. Law No. 92 of 1993 granted amnesty to members of the armed and security forces who had committed offences during that period. In addition the only copy of the Official Gazette promulgating this law was reportedly never made publicly available. This makes challenging of the law in court and public discussion on how to seek the truth and reparations for past wrongs impossible. Despite prayers for national reconciliation led by the President, the truth about what happened during this period is still treated as a national taboo and no official report about these events has so far been released. As a result, the painful memories of the 1989-1991 events remain vivid in the lives of many women, men, girls and boys who lost loved ones, houses and land, and identification papers, as the Special Rapporteur heard from many of those he met during the visit.

31. The Government reported a number of achievements in relation to the situation of those expelled from the country. It listed the return of 34,000 persons as part of the assisted repatriation programme (*programme special d'insertion rapide*, 1996-1998), the signing of a tripartite agreement in November 2007 under which 24,536 persons were repatriated, and the establishment in 2008 of an agency in support of and for the reintegration of returnees (ANAIR) with an annual budget of two billion MRO (6 million USD), which was then subsumed under the Tamadoun agency.[11] The Government also reported that it had reinstated retirement benefits entitlements for civil servant returnees over 60 years of age.

32. Over the years this agency has implemented, exclusively through the national budget, a number of projects aimed at the economic and social integration of the returnees, including the installation of water-related facilities in the sites where returnees live, support for livelihoods, including those of agro-pastoralists, and the construction of schools and hiring of teachers, inter alia. The agency has also carried out a number of initiatives aimed at strengthening social cohesion between the returnees and other communities including through the mediation of land disputes. The agency has developed a programme (2012–

[11] See para. 19.

2015) with the support of the World Bank, aimed at improving access to health and education for returnees and their sustainable integration through the installation of basic infrastructure (e.g. schools, health centres), support for agro-pastoralist activities, and capacity-building activities.

33. The Government reported that a number of returnees who had been removed from their jobs have been reinstated following their return, particularly at the local level, such as in Rosso, where local authorities stated that 95 per cent of education officers had been reinstated. However, victims and their families claim that many still await restoration into service or satisfactory compensation. In addition the Special Rapporteur heard from the victims he met that some of the children of those killed had been prevented from registering in the census as they had been asked to produce a death certificate for their parents.

C. Disaggregated data

34. The Special Rapporteur was concerned by the absence of data disaggregated by ethnicity and descent, which was underscored in all the meetings he held and confirmed in the various studies on the status of the population he was able to access, which did not include any disaggregation of data. All government interlocutors explained to the Special Rapporteur that this was a result of the need to respect people's privacy and the difficulty individuals have in identifying with only one ethnicity or community. While acknowledging the rationale for this policy approach, the Special Rapporteur is of the view that the absence of appropriate tools to assess the spread of ethnic and descent-based discrimination, such as reliable statistics and data, is among the reasons for the lack of awareness as to the extent of these phenomena and understanding thereof. The mandate has consistently recalled that collection of ethnically disaggregated data and indicators is a prerequisite for identifying the groups affected by racial discrimination, gaining a better understanding of the nature and extent of the inequalities faced by these groups and their members, and for designing targeted policies and measures to remedy such inequalities.

35. While acknowledging the risks that the collection of such data may entail, including aggravating tensions between individuals and groups, leading to further prejudice and stereotypes, and conflicting with individuals' right to privacy, the mandate has indicated that these problems may be overcome if States abide by some key principles, including self-identification (A/66/313 and A/65/295).

D. Census

36. In May 2011 a nationwide census was launched, aimed at registering the population in a biometric database, systematizing national identity cards and finalizing the electoral lists. This is a welcome initiative, since in 2004 the Committee on the Elimination of All Forms of Racial Discrimination had recommended that the State carry out a precise population census not limited to linguistic factors, and produce detailed indicators disaggregated by descent or ethnic origin. The Committee had also recommended that the State party carry out targeted surveys, on the basis of voluntary self-identification, which would make it possible to determine the situation of the groups falling within the definition of article 1 of the Convention on the Elimination of All Forms of Racial Discrimination (see CERD/C/65/CO/5).

37. The authorities explained that the census was necessary to safeguard the security of the country as well as that of its residents and citizens, through the establishment of a centralized national biometric database to replace the 13 uncoordinated regional population databases, which were dismantled in May 2011. The census process started with the

opening of a first census centre in Nouakchott on 5 May 2011; in 2013 there were a total of 216 census centres of which 8 located abroad for the census of Mauritanian expatriates. The Government explained that the census had been designed in three successive phases: (1) registration of the population in possession of all requested documents; (2) registration of those partially fulfilling the documentation requirements; (3) and registration of the population not possessing any identification documents. Although the Government reported that the current census had allowed for the registration of 2.9 million people, representing 700,000 additional citizens who did not appear in the 2008 census and subsequent complementary census operations conducted up to 2009, the current national exercise has brought to the surface not only the deep-seated issues that divided the society along ethnic and caste lines, but also unresolved human rights violations perpetrated in the late 1980s. Since September 2011, demonstrations have continued against certain practices linked to the census exercise and groups which have traditionally been discriminated against have expressed concerns with regard to the registration requirements, which have been viewed by some as an attempt to strip members of Mauritanian society of their right to nationality.

38. According to the conditions set by the National Population Registration Agency (Agence Nationale du Registre des Populations et des Titres Sécurisés – ANRPTS), in order to be registered the following must be submitted:

(a) A 1998 census birth certificate;

(b) A national identification card;

(c) Parents' National Identification Numbers (for persons under 45 years of age, their parents must be registered before they can be enrolled);

(d) Parent's/s' death certificate(s), for individuals under 45 years of age, if applicable;

(e) Any other document confirming the applicant's identity, such as a passport, an old birth certificate, or a certificate of nationality.

39. The Government also reported that registration for each individual is carried out in two steps: (1) identification of the individual through the compiling and screening of existing identification documents; and (2) subsequent registration of the individual's biographic and biometric data.

40. The requirements of the census have reportedly particularly affected the Haratine and Afro-Mauritanian communities. These requirements de facto exclude Haratine whose parents and grandparents were never registered for the most part, and whose births were never registered, being born of parents who had not contracted civil marriages, and therefore could not acquire nationality in their own right. In this regard it is important to note that following a civil status reform in 2010, birth certificates can be issued to children born on Mauritanian soil only if their parents' marriage is registered and they can provide a marriage certificate in compliance with the Personal Status Code of 2001 (Law 2001-052 of 19 July 2001), which establishes that traditional marriages must be approved by a civil registration office within three months to be legally recognized.

41. The Government reported that, for the first two years of the census campaign, the parents' marriage certificate was not required for the registration of children; however when the number of registered persons reached 2 million and that of registered children increased significantly, the production of a marriage certificate was made mandatory. The Government explained that this measure had been enforced to fulfil two objectives: (1) to safeguard the interest of the child and the mother and (2) to educate the population on civil marriage registration, which is a civil act constituting both a basic right and a legal obligation. However, these requirements have also led to the exclusion of a large number of Mauritanians from remote rural areas, where access to public services is limited. Moreover,

in accordance with Muslim traditions, most marriages in the past were contracted only before the religious authorities and not registered as civil acts, which is still the case in remote areas, thus leading to potential statelessness for a number of children.

42. Although the national census agency is enrolling returnees on the basis of the existing lists produced by the ANAIR agency, which registered all returnees within the framework of the 2007 Tripartite Agreement, returnees face challenges with the current enrolment process. It has been reported that some of the returnees have not had access to enrolment and that fewer than half the returnees have been enrolled, although ANAIR reports rates above 80 per cent. In order to remedy the situation and allow access to enrolment for all returnees, a joint committee, including representatives of the returnee community and the national census agency, was established in 2013 and meets weekly. The Office of the United Nations High Commissioner for Refugees (UNHCR) monitors the situation, and cooperates directly with ANRTPS with regard to the enrolment of returnees and any related litigation. The national census was also reported to have affected the process of obtaining identity cards for the returnees, thereby once again victimizing this group. The Government reported that no new identity cards would be issued until the census was complete and, at the time of the visit, it was still ongoing. Returnees generally do not have identity cards but only receipts proving that their request for an identity card is pending. These receipts do not seem to be valid for identification or transactions. Without identity cards, individuals cannot travel or engage in administrative procedures to obtain a certificate of nationality or a marriage certificate, which are now mandatory for registering children born in returnee sites.[12] It also affects their ability to register as voters. This situation has so far disproportionately affected the most marginalized groups and groups at risk of discrimination and has created obstacles for returnees seeking to reintegrate harmoniously into one of the least developed areas of the country and enhanced the risk that some members of these groups, who were deprived of their nationality prior to expulsion from Mauritania, will be unable to prove re-acquisition of nationality and will remain stateless.

43. The Special Rapporteur learned about the difficulties that some Mauritanians living abroad have faced in registering in the census, particularly those who are unable to produce a residence permit.

44. The Special Rapporteur was also informed that the census recognized four ethnic classifications, namely Moorish, Soninke, Fulani (Peulh) and Wolof, thus limiting the available choices. It is also not based on self-identification. Certain groups claimed that they were asked by census officials to undertake additional tests to prove their nationality, involving the ability to cite particular religious verses, to speak the Hassaniya language or recognize key political and public figures.[13]

45. In line with general recommendation No. 8 (1990) of the Committee on the Elimination of Racial Discrimination, on identification with a particular racial or ethnic group, the mandate has consistently indicated that self-identification should constitute a pillar for the collection of ethnically disaggregated data, to ensure respect for the right of individuals to assert their own identity. While implementing this principle may lead to underreporting and inaccurate data, it is based on the important notion that the State should not impose an identity on the individual (A/65/295, para. 55).

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[12] Open Society Justice Initiative, Implementation Dossier, Communication Nos. 54/91-61/91-98/93-164/97-196/97-210/98: Malawi Africa Association, et al./Mauritania, October 2011.

[13] Anti-Slavery International, Minority Rights Group International & SOS-Esclaves, submission to the United Nations Human Rights Committee, 109th session, 9 September 2013.

46. Since the start of the census exercise, members of the *Touche pas a ma nationalité* movement, which gathers together young people from across the spectrum of society, have organized several demonstrations to denounce the alleged discriminatory practices of certain census officials, which have led to delays in registration, with certain individuals being unable to register. Some of the demonstrations, such as that of 10 September 2011, were reportedly dispersed by law enforcement agencies with the use of force and tear gas. These incidents occurred in various parts of the country. For example on 26 September 2011 in Kaedi a member of the movement was allegedly severely beaten by police officers during a demonstration by young people to protest irregularities in the census. It is reported that the complaint submitted by his family was dismissed. On 27 September 2011 in Maghama the police fired against young protestors who were members of the movement, killing one young boy and injuring nine others. Despite some disciplinary measures taken against the alleged perpetrators and a complaint lodged by the victim's father before the Kaedi court, it appears that no investigation has been carried out to bring those responsible to justice.[14] These cases bear witness yet again to the shortcomings of the justice system.[15]

47. The composition of ANRPTS, which oversees the census process and employs 1,200 census agents, reportedly does not reflect the ethnic diversity of the country, as the Special Rapporteur learned during his meetings.[16] He regrets that despite several requests he was not granted the opportunity to meet with representatives of ANRPTS to discuss the above issues.

48. The National Human Rights Commission also informed the Special Rapporteur that it had received information on about 60 cases of irregularities and difficulties related to the census registration, including mistakes in the spelling of names and dates of birth, and had asked the administration to issue instructions to clarify certain procedures.

E. Poverty eradication

49. In 2008, 42 per cent of the Mauritanian population was living below the poverty line, estimated at UM 129,600 (US$ 433), which was a reduction of 1.2 per cent as compared with 46.7 per cent in 2004. Poverty has remained a rural phenomenon, with rural populations living below the poverty line estimated at 59.4 per cent, compared with 20.8 per cent in urban centres. It was also estimated that in 2008, 25.9 per cent of the population lived in situations of extreme poverty, fixed at UM 96,400 (US$ 322), which, not surprisingly, affected mostly the rural areas, where 40.8 per cent of the population live in extreme poverty, compared with 7.7 per cent in urban centres.[17] The poorest areas, with an estimated 60 per cent of the population living below the poverty line, were estimated to be Tagant, Gorgol and Brakna. As mentioned in section D, population studies do not disaggregate data by ethnicity and descent and thus data on regional diversity may be the closest proxy indicator, as explained by some interlocutors.

50. Poverty is undeniably a big challenge in Mauritania, which cuts across all groups and communities. Despite some limited assistance provided by the Government to former slaves or descendants of slaves in the form of land, a number of government interlocutors claimed that the groups which have been historically marginalized due to slavery continue to be economically dependent on their former masters. This situation perpetuates their

[14] See note 2.

[15] See section B.

[16] Alkarama, rapport alternatif soumis au Comité des droits de l'homme, 13 septembre 2013.

[17] Ministère des affaires économiques et du développement, Office national de la statistique, "Profil de la Pauvreté en Mauritanie – 2008".

marginalization, even if there is no intent to keep them in slavery-like conditions. Yet poverty and discrimination are, everywhere in the world, strictly intertwined in a cycle that is unlikely to be broken unless they are both tackled simultaneously. Discrimination is also about distribution of resources and, in the globalized market economy, the worst off are frequently, if not systematically, members of certain ethnic groups whose particular vulnerability results partly from a history of discrimination, oppression and exploitation.[18]

51. The Special Rapporteur therefore welcomes the emphasis placed by the Government on eradicating poverty through major development projects. He was pleased to hear that these projects have targeted the so called "triangle of poverty", which was re-named the "triangle of hope", where some of the most marginalized groups live and where the entire population has been living below the poverty line. These projects include rural electrification, building of road networks, irrigation projects, and the development of income-generating activities run by women. According to the Government, a number of individuals have also benefited from access to land schemes and around 12,000 households from cash transfers with conditions attached such as sending children to school and visiting health centres. The Government stated that the budget devoted to projects targeted at improving the living conditions and social status of historically marginalized groups has notably increased, reaching more than UM 170 billion (US$ 568 million). However, no projects specifically targeting former slaves have apparently been put in place, and Haratines have been only indirect end beneficiaries of projects addressing general poverty. The Special Rapporteur welcomes these developments and this comprehensive approach to combating discrimination and exclusion. Nevertheless, he wishes to recall that eradication of poverty through an increase in livelihood opportunities and improvement in living conditions is not a panacea for fighting discrimination, and should be accompanied by an increase in life choices.

F. Youth and education

52. Approximately 70 per cent of the population is aged under 30, with those aged between 10 and 30 representing 40.8 per cent within this segment of the population.[19] In 2000, those below the age of 30 accounted for 72.4 per cent of the unemployed. Young people therefore represent a significant and mostly vulnerable part of the population. A large number have been compelled to migrate from rural areas to urban centres because of the lack of the necessary infrastructure such as schools, health centres, and youth centres to address their needs. The national policy on youth, leisure, sports and its implementation strategies (2011-2016) was adopted against this backdrop. The specific objectives of this policy are: to create an enabling environment for young people to participate in the process of economic and social development; to promote cultural, sport and socio-educational activities; to promote the spirit of entrepreneurship and social integration; to develop mechanisms to protect young people and prevent juvenile delinquency and to promote a culture of peace and democracy among youth. It is important to note that this policy does not list among its objectives the promotion of social cohesion and equality. It makes reference to the need to strengthen civic education in order to consolidate the legal and institutional framework necessary to support the full development of young people, with the focus on the promotion of youth associations. In this regard, the Government reported that

[18] International Council on Human Rights Policy, *Racial and economic exclusion: policy implications*, (Versoix, 2001).

[19] Ministère de la culture, de la jeunesse et des sports, Politique nationale de la jeunesse, de loisirs, des sports et ses stratégies de mise en œuvre.

it had organized a series of multicultural festivals to enhance social cohesion and reassert the complementary nature of the different cultures in the country.

53. Young people, particularly in rural areas, appear to be strongly attached to the traditional values of their groups of origin: young people identify first and foremost with the group to which they belong rather than to the nation. Some young people, for example, believe that maintaining the caste system is necessary to preserve the group identity and claim that mixed marriages are unacceptable. As a result the ethnic, religious or descent based groups compete with and fill the space left by public institutions and services which are no longer able to cater for an increasing young urban population, thus undermining efforts towards social cohesion.[20]

54. Social and political awareness remain very limited, particularly in rural contexts, where the adherence to traditional values and mentality is still strong. In this connection, inequalities, hierarchy and stratification are seen as a normal legacy of the past, to the detriment of the ideals of equality of all human beings. This situation also translates into the political choices of young people, who said they had voted for the candidate chosen by their respective communities.

55. From the interactions during the visit, the Special Rapporteur sensed that the feeling of belonging to one nation had not yet been cemented and that individuals were more likely to mobilize along ethnic and caste lines. Hence it was reported that people tended to favour members of their families, their castes, ethnic groups or regions,[21] which perpetuates nepotism in both the political and economic spheres, leading to further discrimination and inequalities.

56. The education system has not effectively contributed to minimizing these sentiments, as over the years the system has been unilingual, alternating exclusively between French and Arabic, before becoming a dual education system. This has consequently contributed to the formation of two distinct categories of professionals and workers, whose access to employment and job opportunities has by default been differentiated and, in some sectors such as public administration, greater for one category than the other.

57. In addition the education system does not effectively play its role in strengthening integration and social cohesion, considering the literacy rate for adults, which was 58.6 per cent in 2011,[22] and the structural limitations linked to the languages of education. The Special Rapporteur noted how language is perceived as a means for domination of some groups over others. The reform to introduce bilingualism in education, which started in 1989, is commendable; however the country needs to shift to effective bilingualism, to provide equal opportunities for all. In this regard the efforts of the Government to train teachers in French are noteworthy but should be stepped up as only 25 per cent of teachers appear to be bilingual (in 2013 2,000 teachers were trained in French). In addition to bilingualism, it is important that the other languages of the country are promoted and taught. In 2004 the Committee on the Elimination of Racial Discrimination recommended in its concluding observations that the State consider including national languages in the education system for children who wish to receive an education in those languages (CERD/C/65/CO/5, para. 20).

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[20] Becapress, Government of the Islamic Republic of Mauritania and UNICEF, "Etude CAP sur les prejugés sociaux, la discrimination et la citoyenneté" (October 2010).

[21] Sall Ousmane and Abdallahi Ould Kerim, "L'introduction des *life skills* en Mauritanie: Document de base à l'intention des concepteurs des programmes scolaires de l'éducation nationale" (June 2005).

[22] See note 1.

58. Another obstacle in the field of education is the difficulty of instituting inclusive schools. The Government enacted a law in 2001 establishing compulsory education for children up to the age of 14; however, many children of former slaves and children with special needs, as well as those whose birth has not been registered, are reportedly not in school. For example, the mayor of Nouakchott informed the Special Rapporteur that 80 per cent of the children in Haratine communities were not in school, of whom a large number were likely to end up in conflict with the law. The Special Rapporteur welcomes the statement of the Minister of Education whereby instructions were given to the effect that schools should receive all children at the primary level regardless of whether or not they have birth certificates or other papers.[23]

VI. Conclusions and recommendations

59. **As the previous Special Rapporteur, Mr. Diène, noted, although discrimination is not to be found in the letter of the law, many individuals de facto do not have equal opportunities with regard to education, employment, business opportunities, or access to justice and to government services.**

60. **The progress achieved thus far by the State towards meeting its human rights obligations and the constructive spirit of openness by the Government vis-à-vis the international human rights mechanisms is noteworthy. Dialogue, cooperation and partnerships remain essential in advancing the protection and promotion of human rights.**

61. **However a number of challenges persist. Some are hard to tackle, as they are deep-rooted in traditions, history and mentalities. Hence bold measures and zero tolerance towards impunity are urgently required to accelerate progress in the realization of an equal and diverse society based on respect for all human rights for all.**

62. **In light of his findings and those of the other United Nations human rights mechanisms which examined issues related to ethnic and descent-based discrimination in the country, the Special Rapporteur would like to offer the recommendations which follow.**

63. **First, the recommendations previously issued by regional and international human rights mechanisms, including Mr. Diène, and which have not been implemented or only partially so, are still valid and the Government should take urgent action to implement these. For ease of reference a link to a table summarizing and clustering these recommendations is included in the appendix.**

64. **The national plan of action against racial discrimination must be based on a thorough analysis/assessment of all the facets of discrimination in the country through the conduct of a baseline study on the status, root causes, manifestations and consequences of the discrimination which has scarred Mauritanian history, with a view to better informing the policies to be implemented. The process for developing the plan must be inclusive and participatory so that all those involved can claim ownership and monitor its implementation; the result of the process must be sufficiently concrete to be measurable. Thus the Government should ensure that all the above elements are considered during the development of the plan, and in the lead-up to its adoption.**

[23] According to the Minister, 18,000 children could not access schools because of lack of birth certificates at the time of the visit.

65. **The Government and its partners should take the opportunity, through the development of the social cohesion strategy, to streamline and focus the various action plans and programmes related to ethnic and descent-based discrimination in order to avoid fragmentation of efforts which have the common objective of achieving an inclusive, diverse society based on human rights and equality. This could also be an opportunity to maximize already limited resources.**

66. **While being aware that data have to be used sensibly, the Government has to demonstrate its political will to address discrimination by investing in independent studies, assessments and surveys to analyse the situation, monitor progress and evaluate results. The Special Rapporteur is of the view that the National Human Rights Commission is well placed to lead such thematic studies. He also strongly encourages United Nations agencies and bilateral donors to support the Government in this endeavour.**

67. **It is paramount that the Government addresses the issues which the census process has highlighted so that individuals, and consequently their children, are not unduly deprived of their right to identity and nationality. The Government should also take measures to prevent children from becoming stateless: a situation which affects mostly children born of non-registered marriages, leading to de facto discrimination against the most isolated communities and the groups which have historically been discriminated against. In this regard, the Special Rapporteur urges the Government to ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

68. **There is a need to improve the effectiveness of the relevant institutions in addressing the problems of discrimination and to win public confidence in their effectiveness and commitment to implementing the law. The competent ministries should therefore include in their annual budgets adequate resources to tackle issues of ethnic-, caste- and descent-based discrimination as well as slavery-like practices within their areas of responsibility, particularly to strengthen the capacity and expertise of officials, and maintain continued cooperation with relevant United Nations agencies, and in particular with the Office of the High Commissioner for Human Rights in Mauritania.**

69. **A policy of affirmative action should be implemented in relation to selection and recruitment of personnel in key State institutions such as the security and armed forces, the justice system, and the civil service. Inclusion of all the groups in all sectors of administration and the private economy is key to the promotion of democracy, national reconciliation and cohesion. Broader representation of ethnic groups within the administration at civil registration centres and law enforcement bodies should be vigorously pursued by the Government with a view to reducing instances of real or perceived discriminatory behaviour and attitudes.**

70. **The Government should promote equal access to political life for the communities which have historically been discriminated against and their political parties, including through the introduction of affirmative action at the national and local levels.**

71. **In a context where social prejudices and ethnic discrimination persist, the Government should strengthen human rights education and civic education, as these are all the more necessary, not only to maintaining social cohesion and embedding a democratic culture founded on human rights, but also to transforming the social fabric.**

72. **A number of concerns related to difficulties in registration, compensation and reparation for some of the returnees, continuing land disputes and the lack of**

accountability for the human rights violations committed in 1989 were conveyed to the Special Rapporteur. Addressing urgently these concerns must be on the agenda for national reconciliation and is a prerequisite for building an inclusive and diverse society. First and foremost, the Government should make the 1993 law publicly available in Arabic and French, a measure which would not involve costly resources. In addition the new national strategy on social cohesion (SNCS) should include a transitional justice component to enable public discussion on the events of the late 1980s which led to the deportation of thousands of Mauritanian citizens and to the deprivation of their nationality and economic power. It is important that victims of these past violations be granted access to effective remedies with a view to building a strong basis for a new social cohesion.

73. Although slavery has been outlawed in law, slavery-like practices are very much alive, together with the social conditions favouring such practices. The institutional and legal frameworks have to be given teeth so that perpetrators are held to account. Amendments to the 2007 anti-slavery law to provide for the capacity of non-governmental organizations to act on behalf of victims of slavery-like practices and to provide stronger protection and support to them should be fast-tracked.

Appendix

Selected recommendations by United Nations human rights mechanisms which have previously examined the human rights situation in Mauritania

These are available from:
http://www.ohchr.org/EN/Issues/Racism/SRRacism/Pages/CountryVisits.aspx.